

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent &amp; Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
filed in the U.S. District Court Northern District of California on the following ☐ Patents or ☐ Trademarks:

DOCKET NO. <b>CV 08-00884 EMC</b>	DATE FILED <b>2/8/08</b>	U.S. DISTRICT COURT <b>450 Golden Gate Avenue, P.O. Box 36060, San Francisco, CA 94102</b>
PLAINTIFF <b>ASUSTEK COMPUTER, INC.</b>		DEFENDANT <b>TECHNOLOGY PROPERTIES LIMITED, ET AL.</b>
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 see Complaint		
2 see Amended Complaint		
3 <b>5,809,336</b>		
4 <b>5,784,584</b>		
5 <b>5,440,749</b>		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1 <b>6,438,638</b>			
2 <b>6,976,623</b>			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK  Richard W. Wieking	(BY) DEPUTY CLERK  Sheila Rash	DATE  February 14, 2008
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Copy 1—Upon initiation of action, mail this copy to Commissioner    Copy 3—Upon termination of action, mail this copy to Commissioner  
Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner    Copy 4—Case file copy

1 have since discussed the possibility of a license, the parties have been unable to reach any  
2 agreement to date.

3 16. Based upon the above facts, there is an actual and justiciable controversy  
4 within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

5 **FIRST CLAIM**

6 **DECLARATORY JUDGMENTS REGARDING THE '336 PATENT**

7 17. The Plaintiffs hereby restate and reallege the allegations set forth in  
8 paragraphs 1 through 16 and incorporate them by reference.

9 18. No valid and enforceable claim of the '336 patent is infringed by the  
10 Plaintiffs.

11 **SECOND CLAIM**

12 **DECLARATORY JUDGMENT REGARDING THE '584 PATENT**

13 19. The Plaintiffs hereby restate and reallege the allegations set forth in  
14 paragraphs 1 through 16 and incorporate them by reference.

15 20. No valid and enforceable claim of the '584 patent is infringed by the  
16 Plaintiffs.

17 **THIRD CLAIM**

18 **DECLARATORY JUDGMENT REGARDING THE '749 PATENT**

19 21. The Plaintiffs hereby restate and reallege the allegations set forth in  
20 paragraphs 1 through 16 and incorporate them by reference.

21 22. No valid and enforceable claim of the '749 patent is infringed by the  
22 Plaintiffs.

23 **FOURTH CLAIM**

24 **DECLARATORY JUDGMENT REGARDING THE '638 PATENT**

25 23. The Plaintiffs hereby restate and reallege the allegations set forth in  
26 paragraphs 1 through 16 and incorporate them by reference.

27 24. No valid and enforceable claim of the '638 patent is infringed by the  
28 Plaintiffs.

**FIFTH CLAIM**

**DECLARATORY JUDGMENT REGARDING THE '623 PATENT**

25. The Plaintiffs hereby restate and reallege the allegations set forth in paragraphs 1 through 16 and incorporate them by reference.

26. No valid and enforceable claim of the '623 patent is infringed by the Plaintiffs.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs pray for judgment as follows:

1. Declaring that no valid and enforceable claim of the patents-in-suit is infringed by the Plaintiffs;

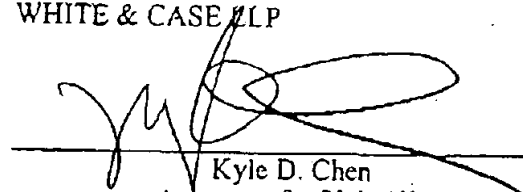
2. Declaring that Defendants and each of their officers, employees, agents, alter egos, attorneys, and any persons in active concert or participation with them be restrained and enjoined from further prosecuting or instituting any action against the Plaintiffs claiming that the patents-in-suit are valid, enforceable, or infringed, or from representing that the products or services of the Plaintiffs infringe the patents-in-suit;

3. A judgment declaring this case exceptional under 35 U.S.C. § 285 and awarding the Plaintiffs their attorneys' fees and costs in connection with this case;

4. Awarding Plaintiffs such other and further relief as the Court deems just and proper.

Dated: February 13, 2008

WILLIAM SLOAN COATS  
MARK R. WEINSTEIN  
SAM O'ROURKE  
KYLE D. CHEN  
WHITE & CASE LLP

  
\_\_\_\_\_  
Kyle D. Chen  
Attorneys for Plaintiffs  
ASUSTeK Computer, Inc. and  
ASUS Computer International

1 WILLIAM SLOAN COATS (SBN 98464)  
2 MARK R. WEINSTEIN (SBN 193043)  
3 SAM O'ROURKE (SBN 205233)  
4 KYLE D. CHEN (SBN 239501)  
5 **WHITE & CASE LLP**

E-FILING

**ORIGINAL FILED**

FEB 8 2008

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**ADR**

Richard W. Wieking  
Clerk, U.S. District Court  
Northern District of California  
San Jose

Attorneys for Plaintiff

ASUSTEK COMPUTER, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ASUSTEK COMPUTER, INC.,

Plaintiff,

v.

TECHNOLOGY PROPERTIES LIMITED,  
PATRIOT SCIENTIFIC CORPORATION  
and ALLIACENSE LIMITED,

Defendants.

CASE NO: **C08 00884 EMC**  
COMPLAINT FOR DECLARATORY  
JUDGMENT

1 Plaintiff ASUSTeK Computer, Inc. ("ASUSTeK" or "Plaintiff"), by and through  
2 its attorneys, alleges as follows:

3 1. This is a civil action arising under the Patent Laws of the United States, 35  
4 U.S.C. §§101, et seq., seeking a declaratory judgment that no valid and enforceable claim of  
5 United States Patent Numbers 5,809,336 ('336 patent); 5,784,584 ('584 patent); 5,440,749 ('749  
6 patent); 6,438,638 ('638 patent); and 6,976,623 ('623 patent) (collectively the "patents-in-suit")  
7 are infringed by Plaintiff.

### 8 PARTIES

9 2. Plaintiff ASUSTeK is a Taiwan corporation with its principal place of  
10 business in Taipei, Taiwan, R.O.C.

11 3. Defendant Technology Properties Ltd. ("TPL") is, on information and  
12 belief, a California corporation with its principal place of business in Cupertino, California. On  
13 information and belief, TPL is a co-owner of the patents-in-suit.

14 4. Defendant Patriot Scientific Corporation ("Patriot") is, on information and  
15 belief, incorporated under the laws of the State of Delaware and maintains its principal place of  
16 business in Carlsbad, California. On information and belief, Patriot is a co-owner of the patents-  
17 in-suit.

18 5. Defendant Alliacense Ltd. ("Alliacense") is, on information and belief, a  
19 California corporation with its principal place of business in Cupertino, California. On  
20 information and belief, Alliacense is responsible for negotiating possible licenses to the patents-  
21 in-suit with third parties, on behalf of TPL.

### 22 JURISDICTION AND VENUE

23 6. The Plaintiff files this complaint against TPL, Patriot and Alliacense  
24 (collectively "Defendants") pursuant to the patent laws of the United States, Title 35 of the  
25 United States Code, with a specific remedy sought based upon the laws authorizing actions for  
26 declaratory judgment in the federal courts of the United States, 28 U.S.C. §§ 2201 and 2202.

27 7. This Court has subject matter jurisdiction over this action, which arises  
28 under the patent laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201.

1           8.     Venue in this District is proper under 28 U.S.C. §§ 1391(b) and (c) and  
2     1400(b) because, on information and belief, Defendants are corporations subject to personal  
3     jurisdiction in this District and, on information and belief, TPL and Alliacense maintain their  
4     principal places of business in this District.

5                           **INTRADISTRICT ASSIGNMENT**

6           9.     This action is properly filed in the San Jose Division of the Northern  
7     District of California because Defendants reside, or do business, in this district.

8                           **EXISTENCE OF AN ACTUAL CONTROVERSY**

9           10.    There is an actual controversy within the jurisdiction of this Court under 28  
10    U.S.C. §§ 2201 and 2202.

11          11.    Beginning in or about 2006, and continuing thereafter, Alliacense has  
12    demanded that ASUSTeK enter into a royalty-bearing license for certain patents-in-suit.  
13    Alliacense has claimed that certain ASUSTeK products infringe one or more claims of certain  
14    patents-in-suit, and has told ASUSTeK that if it does not take a license, it may be subject to  
15    substantial liabilities.

16          12.    Alliacense has to date provided ASUSTeK with multiple claim charts  
17    purporting to describe how many of ASUSTeK's products are allegedly covered by one or more  
18    claims of the patents-in-suit.

19          13.    ASUSTeK has met with Alliacense many times to discuss a possible  
20    license. During such meetings, Alliacense has consistently demanded that ASUSTeK take a  
21    license or risk possible infringement liability. Although ASUSTeK and Alliacense have  
22    repeatedly discussed the possibility of a license, the parties have been unable to reach any  
23    agreement to date.

24          14.    Based upon the above facts, there is an actual and justiciable controversy  
25    within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

26                           **FIRST CLAIM**

27                   **DECLARATORY JUDGMENTS REGARDING THE '336 PATENT**

28          15.    The Plaintiff hereby restates and realleges the allegations set forth in

1 paragraphs 1 through 14 and incorporates them by reference.

2 16. No valid and enforceable claim of the '336 patent is infringed by the  
3 Plaintiff.

4 **SECOND CLAIM**

5 **DECLARATORY JUDGMENT REGARDING THE '584 PATENT**

6 17. The Plaintiff hereby restates and realleges the allegations set forth in  
7 paragraphs 1 through 14 and incorporates them by reference.

8 18. No valid and enforceable claim of the '584 patent is infringed by the  
9 Plaintiff.

10 **THIRD CLAIM**

11 **DECLARATORY JUDGMENT REGARDING THE '749 PATENT**

12 19. The Plaintiff hereby restates and realleges the allegations set forth in  
13 paragraphs 1 through 14 and incorporates them by reference.

14 20. No valid and enforceable claim of the '749 patent is infringed by the  
15 Plaintiff.

16 **FOURTH CLAIM**

17 **DECLARATORY JUDGMENT REGARDING THE '638 PATENT**

18 21. The Plaintiff hereby restates and realleges the allegations set forth in  
19 paragraphs 1 through 14 and incorporates them by reference.

20 22. No valid and enforceable claim of the '638 patent is infringed by the  
21 Plaintiff.

22 **FIFTH CLAIM**

23 **DECLARATORY JUDGMENT REGARDING THE '623 PATENT**

24 23. The Plaintiff hereby restates and realleges the allegations set forth in  
25 paragraphs 1 through 14 and incorporates them by reference.

26 24. No valid and enforceable claim of the '623 patent is infringed by the  
27 Plaintiff.

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1. Declaring that no valid and enforceable claim of the patents-in-suit is infringed by the Plaintiff;

3. A judgment declaring this case exceptional under 35 U.S.C. § 285 and awarding the Plaintiff their attorneys' fees and costs in connection with this case;

Dated: February 8, 2008

WILLIAM SLOAN COATS  
MARK R. WEINSTEIN  
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Kyle D. Chen  
Attorneys for Plaintiff  
ASUSTeK Computer, Inc.



**ORIGINAL  
FILED**

FEB 13 2008

RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA

1 WILLIAM SLOAN COATS (SBN 98464)  
2 MARK R. WEINSTEIN (SBN 193043)  
3 SAM O'ROURKE (SBN 205233)  
4 KYLE D. CHEN (SBN 239501)  
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Attorneys for Plaintiffs

1 ASUSTEK COMPUTER, INC. and  
2 ASUS COMPUTER INTERNATIONAL

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

13 ASUSTEK COMPUTER, INC. and  
14 ASUS COMPUTER INTERNATIONAL

Plaintiffs,

v.

16 TECHNOLOGY PROPERTIES LIMITED,  
17 PATRIOT SCIENTIFIC CORPORATION,  
18 MCM PORTFOLIO LLC and  
19 ALLIACENSE LIMITED,

Defendants.

Case No.: C 08 00884 EMC

**FIRST AMENDED COMPLAINT  
FOR DECLARATORY JUDGMENT**

FILE VIA FAX

1 Plaintiffs ASUSTeK Computer, Inc. ("ASUSTeK") and ASUS Computer  
2 International ("ACI") (collectively "Plaintiffs"), by and through their attorneys, allege as follows:

3 1. This is a civil action arising under the Patent Laws of the United States, 35  
4 U.S.C. §§101, et seq., seeking a declaratory judgment that no valid and enforceable claims of  
5 United States Patent Nos. 5,809,336 ("336 patent"); 5,784,584 ("584 patent"); 5,440,749 ("749  
6 patent"); 6,438,638 ("638 patent"); and/or 6,976,623 ("623 patent") (collectively the "patents-  
7 in-suit") are infringed by Plaintiffs.

8 **PARTIES**

9 2. Plaintiff ASUSTeK is a Taiwan corporation with its principal place of  
10 business in Taipei, Taiwan, R.O.C.

11 3. Plaintiff ACI is a California corporation with its principal place of business  
12 in Fremont, California. ACI is a wholly-owned subsidiary of ASUSTeK.

13 4. Defendant Technology Properties Ltd. ("TPL") is, on information and  
14 belief, a California corporation with its principal place of business in Cupertino, California. On  
15 information and belief, TPL is a co-owner of certain patents-in-suit.

16 5. Defendant Patriot Scientific Corporation ("Patriot") is, on information and  
17 belief, incorporated under the laws of the State of Delaware with its principal place of business in  
18 Carlsbad, California. On information and belief, Patriot is a co-owner of certain patents-in-suit.

19 6. MCM Portfolio LLC ("MCM") is, on information and belief, a Delaware  
20 limited liability company with its principal place of business in Cupertino, California. On  
21 information and belief, MCM is a co-owner of certain patents-in-suit and is owned or controlled  
22 by TPL.

23 7. Defendant Alliacense Ltd. ("Alliacense") is, on information and belief, a  
24 California corporation with its principal place of business in Cupertino, California. On  
25 information and belief, Alliacense is responsible for negotiating possible licenses to the patents-  
26 in-suit with third parties, on behalf of TPL.

27 **JURISDICTION AND VENUE**

28 8. The Plaintiffs file this complaint against TPL, Patriot, MCM and

1 Alliacense (collectively "Defendants") pursuant to the patent laws of the United States, Title 35  
2 of the United States Code, with a specific remedy sought based upon the laws authorizing actions  
3 for declaratory judgment in the federal courts of the United States, 28 U.S.C. §§ 2201 and 2202.

4 9. This Court has subject matter jurisdiction over this action, which arises  
5 under the patent laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201.

6 10. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and (c) and  
7 1400(b) because, on information and belief, Defendants are corporations subject to personal  
8 jurisdiction in this District and, on information and belief, TPL, MCM and Alliacense maintain  
9 their principal places of business in this District.

#### 10 INTRADISTRICT ASSIGNMENT

11 11. Pursuant to Local Rule 3-2(c), because this is an intellectual property case,  
12 it may properly be assigned to any division in this judicial district.

#### 13 EXISTENCE OF AN ACTUAL CONTROVERSY

14 12. There is an actual controversy within the jurisdiction of this Court under 28  
15 U.S.C. §§ 2201 and 2202.

16 13. Beginning in or about late 2005, and continuing thereafter, Alliacense has  
17 demanded that Plaintiffs enter into a royalty-bearing license for certain patents-in-suit. Alliacense  
18 has claimed that products of Plaintiffs infringe one or more claims of certain patents-in-suit, and  
19 has told Plaintiffs that if it does not take a license, it may be subject to substantial liabilities.

20 14. Alliacense has to date provided Plaintiffs with multiple claim charts  
21 purporting to describe how many of Plaintiffs' products are allegedly covered by one or more  
22 claims of the patents-in-suit. Alliacense has also stated that Plaintiffs' exposure is increasing with  
23 each day that it does not obtain a license to certain patents-in-suit. Alliacense has also threatened  
24 Plaintiffs' customers, who have turned to Plaintiffs for indemnification.

25 15. Plaintiffs have met with Alliacense several times to discuss a possible  
26 license, with the most recent meeting having taken place on Oct. 29, 2007 at ASUSTeK's  
27 headquarters in Taipei, R.O.C. During such meetings, Alliacense has consistently demanded that  
28 Plaintiffs take a license or risk possible infringement liability. Although Plaintiffs and Alliacense